

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KATHLEEN P. MULLINIX,)	
)	
Plaintiff,)	
)	
v.)	Civil Action
)	No. 04-12684-WGY
)	
KIKI BOGORAD-GROSS and)	
LEONARD P. BOGORAD, as They)	
Are Executors of the Will of)	
Lawrence Bogorad,)	
)	
Defendants.)	
)	

DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME

Pursuant to Fed. R. Civ. P. 6(b)(2), Defendants Kiki Bogorad-Gross ("K. Bogorad-Gross") and Leonard Bogorad ("L. Bogorad"), as Executors of the Will of Lawrence Bogorad (collectively, "Defendants"), by their attorneys, Sullivan & Worcester LLP, hereby move this Court for additional time to file Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment. As grounds for this Motion, Defendants state the following:

1. Plaintiff filed her motion for partial summary judgment on June 5, 2006. At this time Defendants' lead attorney was out of town on business. Defendants' associate attorney was in North Carolina for an arbitration.
2. Under Local Rule 7.1(B)(2) and pursuant to this Court's order on June 6, 2006 ("Order"), Defendants' opposition was due to be filed on Monday, June 19, 2006. However, a calendar error led the Defendants to believe the deadline was Monday, June 26, 2006.
3. Plaintiff filed her Cross Motion for Summary Judgment on June 19, 2006 and, therefore, Defendant's opposition to Plaintiff's cross motion is due to be filed July 3, 2006.

4. Defendants anticipate filing their opposition to Plaintiff's Cross Motion for Summary Judgment no later than June 30, 2006.

5. In order to coordinate their defenses and opposition papers, Defendants request that this Court extend the deadline for submitting Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment to June 30, 2006, and therefore, Plaintiff's reply deadline to July 11, 2006.¹

6. The Order set July 13, 2006 as the hearing date to hear all of the summary judgment motions. As Defendants' lead attorney is unavailable on that date, the parties have conferred and Defendants respectfully request a new hearing date for July 20, 2006.²

7. Defendants submit that the missed deadline is a result of excusable neglect and respectfully request that this Court permit Defendants to file their Opposition to Plaintiff's Motion for Partial Summary Judgment on June 30, 2006. Defendants submit that the Plaintiff is not prejudiced by this error, the delay is brief and the calendar mistake was not made in bad faith.

¹ Plaintiff does not object to this Motion so long as her right to file a reply brief is not affected. A true and accurate copy of the email from Sara E. Solfanelli, Esq. to Lisa M. Hodes, Esq. is attached hereto as Exhibit A.

² Alternatively, both parties are also available July 17 and July 18.

KIKI BOGORAD-GROSS and
LEONARD P. BOGORAD, as
they are the Executors of the Will
of Lawrence Bogorad,
By their attorneys,

June 23, 2006

/s/ Lisa M. Hodes
Larry L. Varn (BBO # 508130)
Lisa M. Hodes (BBO # 660444)
SULLIVAN & WORCESTER LLP
One Post Office Square
Boston, Massachusetts 02109
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FEDERAL RULE 26(c) AND LOCAL RULES 7.1(A)(2) AND 37.1 CERTIFICATE

Counsel for Defendants has made a good-faith effort to resolve this dispute without court action. Counsel for Defendants and counsel for Plaintiff have exchanged emails and have held multiple phone conferences, but have been unable to reach agreement.

/s/ Lisa M. Hodes

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on June 23, 2006.

/s/ Lisa M. Hodes

EXHIBIT A

Hodes, Lisa M.

From: Solfanelli, Sara E. [SSolfanelli@choate.com]
Sent: Friday, June 23, 2006 1:28 PM
To: Hodes, Lisa M.
Cc: Varn, Larry; Kenna, Larry; Dineen Jerrett, Michelle L.
Subject: RE: Mullinix v. Bogorad, et al.

Lisa:

Just to confirm our phone conversation, I expressed that because of Judge Young's order on June 6, 2006 that set the due date for the oppositions as June 19, we do not feel that we can assent to a motion for an enlargement of time and, therefore, we do not. Also, so long as our right to file a reply brief is not affected (Judge Young's order set reply briefs due on June 30, allowing 11 days), we would not stand up to object to whatever approach you take with Judge Young regarding filing the opposition.

Many thanks,
Sara

-----Original Message-----

From: Hodes, Lisa M. [mailto:lhodes@sandw.com]
Sent: Friday, June 23, 2006 12:29 PM
To: Solfanelli, Sara E.
Cc: Varn, Larry; Kenna, Larry; Dineen Jerrett, Michelle L.
Subject: Mullinix v. Bogorad, et al.

Sara:

I am writing to request assent to Defendant's Motion for Enlargement of Time. Our belief that our opposition to Plaintiff's Motion for Partial Summary Judgment was due to be filed on Monday, June 26, 2006 instead of Monday, June 19, 2006 was the result of a calendar error. In addition, we are asking for an extension to file the our opposition to partial summary judgment to June 30, 2006 in order for us to coordinate our defenses to both the motion for partial summary judgment and cross motion for summary judgment. Please let me know if you will assent to both of our requests.

Thanks,
Lisa

Lisa M. Hodes
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